

## **MEMBERS PRESENT**

Kim Powell RN Member  
Gretchen McNeely RN Member  
Sharon Dschaak LPN Member, Secretary  
Karen Pollington RN Member  
Vickie Badgley LPN Member  
Jeanine Thomas LPN Member  
Steve Rice, Public Member  
Lorena Erickson Public Member

## **MEMBERS ABSENT**

None (Jack Burke, RN Member, position vacated 9/2002)

## **STAFF PRESENT**

Barbara Swehla, RN, Executive Director  
Jill Caldwell, RN, Nursing Practice Manager (present intermittently)  
Darcee Moe, Board Counsel  
Lori Ballinger, Department Counsel (present intermittently)  
Jean Purus, Licensing Technician

Other visitors and guests were present at various times throughout the meeting. Sign in sheets are kept on file.

## **CONVENE**

The Board of Nursing convened on October 9, 2002 in the Federal Building, fourth floor conference room, 301 South Park, Helena Montana.

## **CALL TO ORDER**

The meeting was called to order by Secretary, Sharon Dschaak, LPN, at 1:40 p.m.

## **ELECTION OF NEW PRESIDENT**

Sharon Dschaak noted that Jack Burke's resignation from the Board leaves the position of Board President open. She called for nominations. Kim Powell was nominated by Jeanine Thomas, LPN member. No other nominations came forward. The nominations closed, Kim Powell was elected President by a unanimous vote of a quorum of the Board.

## **QUORUM**

Kim Powell, RN Member, President declared a quorum present.

## **ADOPTION OF AGENDA**

The agenda for the October 9 & 10, 2002 Board of Nursing meeting was reviewed and adopted by unanimous vote.

## **MINUTES**

Sharon Dschaak moved to accept the Full Board minutes from July 2002 as amended, the motion was seconded and approved by a unanimous vote.

## **MAIL BALLOT REPORTS**

**Mail Ballot Reports** were approved unanimously as a group. Jeanine Thomas moved to approve the reports, the motion was seconded.

Prescriptive Authority: This report summarized the vote on proceedings of an August 26, 2002 Conference Call. Applications approved were Christie Sandstad, CNS and Shelley Poss, FNP.

Prescriptive Authority: This report summarized the vote on proceedings of a September 30, 2002 Conference Call. Applications approved were Michele Rae Farrell, CNM and Holly Seinkiewicz, FNP.

#### **MAIL BALLOT**

Screening Panel: This report summarized the vote on proceedings of a September 3, 2002 Panel meeting in Missoula. Non-routine applications approved were David Anderson, APRN; Patricia Pitsch, RN by Endorsement; Frank Pawlak, RN by Endorsement; Amy Severson, LPN by Examination; Destiny Chartier, LPN by Examination.

Temporary Permits for Foreign Applicants: This report summarized the vote on proceedings of an email communication involving board policy and procedures, and allowed by specific rules. A request for a vote on consensus was reached relating to the provision of temporary permits (TP) for three Filipino nursing license applicants whose permits are about to expire and they have not received the necessary work permits from Immigration and Naturalization Service (INS) to be able to work. Since the TPs were not able to be used (the applicants are still in the Philippines), the staff asked for board decision to allow the issuance of another 90 day permit as allowed by rule. Such permission was granted by the Board.

Collaborative Pain Statement (Pharmacy, Medical, and Nursing Boards): This report summarized the vote on proceedings that actually occurred at the July 2002 meeting, but a vote was overlooked at that time. The Board unanimously supports the collaborative pain statement.

**No President's report was submitted.**

**Executive Director's Report**: reviewed by Ms. Swehla with discussion regarding having received approval from the State Budget Office to fill the licensing position vacancy as of this week. The report was approved by unanimous vote.

**Budget Report 2004-2005**: Barbara Swehla presented re-charge calculations outlined in memo from Jim Brown (handout) and described verbally by Ms. Swehla.

Projected Revenue figures were enclosed in the report.

Proposed Budget Reductions include the following suggestions provided by the board office (this was a requirement of the Governor's Office during the budgeting process):

- • renewals to 2 year cycle (a change from an annual process)
- • change in NAP budget to decrease the contract and allow the program to charge participants a fee
- • board staff and member travel: hope to avoid impact by utilizing other reduction strategies to meet the board's identified goals

Sharon Dschaak, LPN Member made a "motion to accept budget proposed". The motion was seconded and carried unanimously.

**Nurses' Assistance Program Report**: was reviewed. NAP consultant, Carol Sem, was unable to be present to field questions, though the Board did not indicate any issues/concerns with the report.

#### **COMMITTEE ASSIGNMENTS**

Kim Powell, President, RN member, distributed proposed Committee Assignments (see at end of this document). Not designated on the document was the Chair for the Adjudication Panel and Chair of the Practice and Credentials Committee. Ms. Powell appointed Sharon Dschaak, LPN member, as Chair of Adjudication Panel and Vickie Badgley, LPN member, as Chair of the Practice and Credentials Committee. The Committee assignments were approved as amended by a unanimous vote.

**REQUEST FOR EARLY RELEASE FROM PROBATION: JIMMIE HELZER, LPN 6774**

Carol Sem recommended early release, further background information presented by Lori Ballinger, Department Counsel. Lorena Erickson, Public Member, made a motion "to remove from probation, and the NAP program Jimmie Helzer, LPN 6774." Gretchen McNeely seconded the motion, Sharon Dschaak presented clarification on the license # in the documents. The motion was approved, seconded and carried unanimously with no abstentions from the vote or recusals.

**Foreign Nurse Applicants**

Discussion was held regarding the issue of foreign nurse applicants not getting work visas before their temporary permits expire. The INS requires that the applicant have a license BEFORE he/she can apply for a work visa. Yet, since 9/11/2001, the INS is not processing visas as quickly as needed. Ms. Swehla noted that the National Council for State Boards of Nursing is working with the INS on this issue and will report back when further information is available. In the meantime, the Board Members directed the board staff to proceed with the same process utilized by email ballot in September 2002 – to allow an additional 90 day temporary permit, upon consensus by the full board, for each case. No motions were entertained.

**GENERAL FULL BOARD ISSUES****Letter from Governor Martz regarding CRNA Opt Out Issue**

The Board discussed the fact that they believe they have done their job in providing an opinion to the Governor's Office with which she can make her decision, but the Board recognized that they should comply with the Governor's request to meet with the Board of Medical Examiners (BME). The letter from BME (written by Board Counsel, Anne O'Leary), was discussed with Ms. O'Leary. The letter referred to the BME opinion and suggestions of how the boards might best address the Governor's request. The Board Members decided that they would meet with 2-3 members of the BME in November.

Steve Rice, Public Member, moved to have "representatives from the Board of Nursing meet with BME members for the purpose of drafting letter to Governor to respond to her letter of September 6, 2002." The motion was seconded and passed unanimously with no abstentions from the vote or recusals.

Kim Powell RN Member and President, Steve Rice, Public Member, and Sharon Dschaak, LPN Member are designated as representatives for this meeting. Jeannie Worsech, BME Executive Secretary, will meet with Barbara Swehla, BON Executive Director, to work out a time and date.

**Letter of Response from Governor Martz regarding Prison Infirmary Issues**

The Board discussed the letter and re-affirmed its concerns about the Infirmary and noted that the rationale for the concerns was based on a complaint to the Board and subsequent responses to the complaint. The letter was not meant to be an inter-agency dispute as implied by the Governor in her letter.

**Board Evaluations**

Three evaluations were received since the July 2002 meeting. Board members will provide their completed evaluations to the E.D. on Thursday, October 10 meeting to compile and email results at a later date.

**Newsletter**

Letter from Sami Butler, Montana Nurses' Association Executive Director was explained by Ms. Butler as a possible cooperative effort between MNA and BON to assist with lowering costs related to printing and mailing newsletters. The proposal and other alternatives were discussed

by the Board members. They noted pros and cons and identified regulatory body versus professional association delineation concerns. The budget impact was acknowledged and could be evaluated at a later time if the need arises. The Board would prefer to continue the newsletter as it currently exists and they oppose the implementation of a newsletter funded by advertisements similar to that of other boards of nursing.

Spring newsletter article will be written by Jeanine Thomas, LPN member.

#### **Attendance at Citizen's Advocacy Council Meeting in November 2002**

Though the Board made a motion in the July 2002 meeting to send someone, no Board member is available to attend, so they will use funds for another travel need in this fiscal year. No motion was necessary.

#### **APRN Scope of Practice Document**

APRN Scope of Practice Document: discussion of the draft document ensued. If the proposed rule for requiring CRNAs to have prescriptive authority is not adopted, the section on CRNAs must include information related to the requirement for prescriptive authority when the CRNA is writing prescriptions to be filled at a pharmacy and to be taken when not under the direct care of the CRNA. Motion will come by way of mail ballots following this meeting, after which the document will be placed on the Board's website and available for those who request it.

#### **EDUCATION COMMITTEE RECOMMENDATIONS**

Gretchen McNeely, RN Member, gave the Education Committee report. The following motions came from committee:

#### **Letter from Lewistown Campus: MSU Northern**

To "close this complaint with prejudice". The motion was approved unanimously with no abstentions from the vote or recusals.

Discussion: Students were generally concerned about faculty support/availability based on rumors during the summer months when school was not in session. Trish Goudie, Dean, MSU Northern, was present to discuss the letter and the issues. She indicated that students have appropriate faculty access and clinical supervision, as well as an established grievance procedure that was not followed. The safety of the public is not an issue in this situation. Since the report was presented by anonymous parties, the board should not need to respond to the complainants. Also, Trish Goudie expressed concerns about how such information is handled and was reminded that this is public information and that the Executive Director does not have the authority to address such concerns without a formal board decision.

#### **Affidavits for Examination Candidates Receiving Temporary Permits**

To "have the board of nursing staff prepare the forms and implement the process for temporary permit affidavits for employers and license applicants by examination." The motion was approved unanimously with no abstentions from the vote or recusals. The Board staff can begin the process immediately.

Discussion: Gretchen McNeely, Education Committee Chair, provided overview of the TP affidavits for endorsement applicants and that the Board requires affidavits relating to supervision and the other concomitant requirements of a temporary license, yet had not historically required this of new graduates who may pose more risk to the public than endorsement candidates who are licensed in another state.

### **MSU Bozemen: Faculty Qualifications**

To accept the faculty qualifications for the following faculty members: Brett Hollis, Sandra Kuntz, Wade Hill, Fredricka Gilje, and Linda Young. The motion was approved unanimously with no abstentions from the vote or recusals.

### **Butte: Montana Tech of UM: Faculty Qualifications**

To accept the faculty qualifications for the following faculty members: Ruth Swenson was approved, Heide Applegate was approved with education waiver. The motion was approved unanimously with no abstentions from the vote or recusals.

### **Butte: Montana Tech of UM: Special Report**

To "accept the special report from Montana Tech Butte and approve the curriculum changes proposed". The motion was approved unanimously with no abstentions from the vote or recusals.

Discussion: Karen Vandaveer was present to address questions regarding the changes planned and presented in the report to the Committee.

### **ADJOURNED**

The Full Board adjourned at 4:00 p.m.

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### **RECONVENED**

Full Board reconvened at 9:55 a.m. on Thursday October 10, 2002.

Quorum was established and called to order by Kim Powell, RN, President.

### **EXECUTIVE SESSION**

#### **Executive Session**

Minutes of executive session proceedings are confidential.

### **RECONVENE REGULAR SESSION**

Full Board reconvened at 10:15 a.m. on Thursday October 10, 2002.

### **UNLICENSED PRACTICE**

#### **Ellen Denny**

The full board discussed the unlicensed practice of Ellen Denny in which she states she does indeed administer medications by injection route and plans to continue to do so. She has previously received a Cease and Desist Order from the Board of Nursing, an order with which she has refused to comply.

Motion came from Committee (Screening Panel of 9/3/2002): "seek an injunction against Ellen R. Denny from the practice of nursing by virtue of reasonable cause found this date". The motion passed unanimously.

### **PRACTICE AND CREDENTIALS COMMITTEE RECOMMENDATIONS**

Vickie Badgley, LPN Member, gave the Practice and Credentials Committee report. The following motion came from committee:

"It is not within the scope of an RN to withdraw fluid, instill medication, or discontinue an intrathecal catheter." The motion passed unanimously.

### **PRESCRIPTIVE AUTHORITY COMMITTEE REPORT**

Kim Powell, RN Member, gave the Prescriptive Authority Committee report. The following motions came from committee:

To recommend prescriptive authority for Deborah Meeks, FNP, Nikki Hill, FNP and Lori Newman CNM, FNP.” The motion passed unanimously.

### **Certified Nurse Midwives**

There was discussion that some midwives have certifications without expiration dates. This will be discussed at a future APRN Committee meeting since it does not meet the Board’s current criteria for APRN recognition.

## **GENERAL DISCUSSION ITEMS**

### **Legislation**

Ms. Swehla, Executive Director, discussed the four proposed legislative items. The first item on the list below was approved by the Department and will be included in the Department of Labor housekeeping bill. The Board may have to determine the best alternative to deal with the other legislation proposed, and items #2 and #3 can be prepared by Board Counsel, Darcee Moe. The legislation on Medication Assistants will most likely be carried by the Montana Health Care Association and the Board may need to determine at the time the bill is proposed whether or not it will support the bill.

- 1) 1) Increase of number of board members to 11 (both to be RN members is being requested). Rationale: The representation of RNs on the board is not sufficient to meet the demands of Panels and Committees, and is not reflective of the licensee numbers in Montana – 11,000 RNs, 3,000 LPNs)
- 2) 2) To remove “for compensation” from the definitions of the practice of nursing.
- 3) 3) Unlicensed Practice – Definitions and Qualifications  
Assisted Living and Other Settings for Medication Assistants

Key issues related to the Medication Assistant legislation:

- • Steer the discussions back to healthy clients; the Board is clear about not approving this type of provider in Acute Care settings
- • Define healthy populations (this will help in terms of Day Care Settings, Assisted Living Communities, and Schools)
- • Work with AARP and MNA to keep this out of Long Term Care as the Board believes this level of provider is not appropriate in that setting due to the higher acuity of the resident population and unreliable or unavailable acuity measures for Long Term Care.
- • Keep this level of provider out of Assisted Living “B” beds and Alzheimer’s Units where in both cases the resident population cannot be a full participant in the process and the prevalent expectation that providers have nursing knowledge.
  - – Sami Butler, MNA, shared concerns from nurses regarding the associated cost issues in long term patient care and acute care. MNA is NOT in favor of Medication Assistants in long term care.
  - – Knowledge and identification of the individual in control of medications is an issue.
  - – JoAnn Dotson, RN, DPHHS, spoke to the potential impact on Daycare facilities, schools, CNA vs Medication Assistant’s differences.
  - – Board position discussion related to “shift of work” CNA/CMA, staffing difficulties, medication error data/long term care facilities. In relation to the job descriptions and responsibilities: is there enough of a need for the position to fulfill workday without being given “other duties”?

### **Lobbyist Needs for the Board of Nursing**

Steve Rice, Public Member, moved that the “Dept. register the exec. Director and nursing practice manager be registered as lobbyists. Barb and Jill to be registered for the upcoming session”. Kevin Braun, Labor and Industry’s Chief Legal Counsel was present for the discussion and the motion. The motion was seconded and passed unanimously with no abstentions from the vote.

## **APRN PROPOSED RULES – PART II**

**The Board voted to adopt the rules as amended – as follows:**

8.32.301 use the word COLLABORATIVE

8.32.301(b)(1) ordering dme, modalities, and diagnostic tests  
8.32.301(b) facilitating (not providing)  
8.32.301 (c) Promote understanding of and compliance with  
8.32.305  
8.32.305(3)(b) those Psych Mental Health CNS certified prior to July 1,2005 may be recognized in Montana.  
8.32.305(3) if Psych CNS plans to utilize medical diagnosis treatment  
8.32.305(3) leave the same ....for approval in..  
8.32.1501 (Title)prescriptive authority for eligible APRNsI (eliminate the word only)  
8.32.1501(b) those Psych Mental Health CNSs certified prior to 7/1/05 with unencumbered licenses may hold prescriptive authority  
- - eliminated the other (b) in draft.  
8.32.1502 no changes  
8.32.1505 no changes  
8.32.1506 item 4.not a change  
New rule #1, no opponents or proponents  
New rule #3, (d) delete all: insert "identify" utilizing evidence based research in practice  
add "client" to the definitions glossary page  
New rule #4 leave as is

Additional information discussed per testimony provided. Eve Franklin's commentary was read by Kim Powell, President. Kim went over the rules, comment period, who drafted the proposed rules, the processes utilized by the committee, and noted that these rules were handled according to MAPA, all proposed rules changes went to all APRNs and interested parties, which significantly exceeded the notice requirements. Each rule was addressed, each commenter's name was used.

Motion by Vickie Badgley, LPN Member "to adopt rules 832.301,832.305, 832.306,832.402, 832.405, 832.412, 832.413, 832.1501, 1502,1505, 1506,1509 and 1510 as amended. Additionally, to adopt proposed New Rules 1 through 4. ARM 832.1507." The motion was seconded and approved unanimously with no abstentions from the vote.

#### **APRN PROPOSED RULE CHANGES – PART I**

The Board was asked to reconsider the adoption of the rule requiring prescriptive authority for CRNAs. The Board agreed to do so and at this time, Steve Rice moved to "reconsider rule 8.32.303 of 25 July 02 and that 8.32.303 (2) be deleted. The motion passed unanimously with no abstentions from the vote or recusals.

#### **LPN IV THERAPY PROPOSED RULES**

Amendments to the proposed rules were discussed and based on testimony:  
8.32.1409 (6)(c) change to: accessing, drawing blood, and flushing.. and changing dressings....

All comments were noted. Sharon Dschaak, LPN member, moved to adopt the rules as amended: 8.32.1409 & 8.32.1408". The motion was approved unanimously with no abstentions from the vote.

#### **NAME BADGE REQUIREMENT**

Letter from Fran Laukaitis, CNO, Kalispell Regional Medical Center regarding an experience that a nurse had with a psychiatric patient coming to her home, ultimately involving law enforcement. The board directed Barbara Swehla, Executive Director, to write Ms. Laukaitis a letter thanking her for providing them with this information and to delineate how this experience does not clearly connect the requirement of having a nurse's full name on the name badge to this nurse's unfortunate experience.

#### **DISCIPLINARY ACTIONS ON-LINE**

Barbara Swehla, Executive Director, brought examples of how state nursing boards are providing disciplinary information on their websites. The board determined that people always have the right to contact the board office or check the website. The board indicated consensus to proceed at the Division level (Business Standards Division) to explore other options that provide more detail on-line with the strong belief that the public has the right to know this information.

#### **OPEN FORUM:**

Eve Franklin asked the Board to reconsider the CNS rules at a board meeting in the near future. She believes that the new rules do not capture the texture and reality of CNS practice.

Susan Good, lobbyist for the Montana Anesthesiology Society, indicated she represents both neurosurgeons and orthopedic physicians' societies, and asked the board for their definition of supervision. She stated that the term independent is still a concern, voiced opposition to the changes in 8.32.303, claiming that it is an expansion of scope and statutory authority issue.

Marlene Tocher and Sharon Howard asked the Board to reconsider the CNS rule changes for the same reasons offered by Ms. Franklin.

#### **Request of Economic Affairs Legislative Interim Committee:**

##### **Meeting with Society for Anesthesiologists and Parties Opposing 8.32.303**

Since the proposed rule change 8.32.303 was adopted in July 2002 by the full board, in early August, the Department urged the board to hold the adoption notice until such time as those parties opposing the rule change and the Board could meet with the Economic Affairs Interim Legislative Committee. The Board was represented by Kim Powell, RN Member and President, at the August 30, 2002 meeting in which she presented the committee with the rationale and basis for the rule change via a comprehensive, but concise PowerPoint presentation. In follow up, Ms. Powell noted that the Board set aside one hour on October 10, 2002 during the board meeting to discuss the issue, provided notice to Ms. Good and interested parties, but the only person present was Ms. Good. Ms. Good stated that she felt this was not a good forum in which to have the discussion her parties seek.

The Board asked Ms. Good to define how this rule is seen as an expansion of scope of practice and, if it is an expansion, what can a CRNA do if the rule is adopted that he/she couldn't do before the rule was changed. Ms. Good was unable to provide the Board with an answer to the question posed.

The Board believes it has complied with the requirements of the Interim Committee, but will still move forward with a meeting in November with individuals in opposition to the rule change.

#### **ADOPTED APRN RULE, NOT YET FILED 8.32.303: CRNA Language Related to Independent and Collaborative Practice**

Kim Powell, President, summarized the rule status and stated that the Board has some options: to abandon the rule, allow the rule period to expire and start over with the process, or serve notice of the adoption.

The board members noted that nothing new has been brought forward that compels the board to reconsider the rule change. The board also noted that no opposing testimony had been provided regarding the same language in the other three APRN categories. The board chose to entertain a motion.

Steve Rice moved to "file the adoption notice for rule 8.32.303 as amended". The motion passed unanimously with no abstentions from the vote or recusals.

#### **AGENDA ITEMS DEFERRED UNTIL JANUARY 2003 MEETING**

Report of Practice, Education, Regulation Congruence Task Force (PERC) with NCSBN



NCSBN Delegate Assembly Recommendations 2002

NCSBN Draft Disaster Preparedness Template.

**2003 BOARD MEETING DATES**

The following dates have been set for the Board of Nursing 2003 regular meetings:

**January 21,22,23, 2003   April 22, 23, 24, 2003   July, 22, 23, 24 ,2003   October, 21,22, 23, 2003**

Due to the Legislative Session in 2003, the Board will be using scheduled **conference calls** to discuss ongoing legislative activities. The dates are as follows:

**Dec. 17, 2002   February 11& 25, 2003   March 4, 11 & 18, 2003   April 8, 2003**

These conference calls are scheduled from **12:00 noon - 2:00 p.m.** Conference lines are available only to board members due to the limited number of lines available during legislative session. Individuals who wish to listen to the deliberations will need to go to a board member's location to listen in on the call or come to Helena.

**ADJOURNMENT:**

The meeting was adjourned at 5:30 p.m.